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No. 52

## House of Representatives

The House was not in session today. Its next meeting will be held on Thursday, March 24, 2022, at 1 p.m.

## Senate

WEDNESDAY, MARCH 23, 2022

The Senate met at 10 a.m. and was called to order by the Honorable ANGUS S. KING, Jr., a Senator from the State of Maine.

### PRAYER

The Chaplain, Dr. Barry C. Black, offered the following prayer:

Let us pray.

Hear our prayers, mighty God. Be merciful and answer. Today, look down from Heaven upon us as we pray for the Ukrainian people.

Lord, we are not worthy to stand in Your presence, but You know the heartache we feel for our brothers and sisters in Ukraine. When their enemies attack, we remain confident that the battle is still in Your hands. Lord, continue to use our lawmakers as instruments of Your peace.

We pray in Your sovereign Name. Amen.

### PLEDGE OF ALLEGIANCE

The Presiding Officer led the Pledge of Allegiance, as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

### APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. LEAHY).

The senior assistant legislative clerk read the following letter:

U.S. SENATE,  
PRESIDENT PRO TEMPORE,  
Washington, DC, March 23, 2022.

To the Senate:

Under the provisions of rule I, paragraph 3, of the Standing Rules of the Senate, I hereby appoint the Honorable ANGUS S. KING, Jr., a Senator from the State of Maine, to perform the duties of the Chair.

PATRICK J. LEAHY,  
President pro tempore

Mr. KING thereupon assumed the Chair as Acting President pro tempore.

### RESERVATION OF LEADER TIME

The ACTING PRESIDENT pro tempore. Under the previous order, the leadership time is reserved.

### CONCLUSION OF MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Morning business is closed.

### LEGISLATIVE SESSION

AMERICA CREATING OPPORTUNITIES FOR MANUFACTURING, PRE-EMINENCE IN TECHNOLOGY, AND ECONOMIC STRENGTH ACT OF 2022—MOTION TO PROCEED—Resumed

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will resume consideration of the motion to proceed to H.R. 4521, which the clerk will report.

The senior assistant legislative clerk read as follows:

Motion to proceed to H.R. 4521, a bill to provide for a coordinated Federal research initiative to ensure continued United States leadership in engineering biology.

### RECOGNITION OF THE MINORITY LEADER

The ACTING PRESIDENT pro tempore. The Republican leader is recognized.

### NOMINATION OF KETANJI BROWN JACKSON

Mr. MCCONNELL. Mr. President, on Monday, I explained that the thinness of Judge Jackson's appellate record makes this week's Judiciary Committee hearings all the more important. Well, we are 2 days in. Judge Jackson is receiving a calm, respectful process, unlike the treatment that Senate Democrats typically inflict on Republican Presidents' nominees.

But, unfortunately, thus far, many of Judge Jackson's responses have been evasive and unclear. She has declined to address critically important questions and ameliorate real concerns.

First and foremost is the simple question of Court packing. The far-left fringe groups that promoted Judge Jackson to this vacancy want Democrats to destroy the Court's legitimacy through partisan Court packing or unconstitutional term limits. She was literally the Court packers' pick for the seat, and she has repeatedly refused to reject their position.

Both of the liberal legal giants, Justice Ginsburg and Justice Breyer, had no problem—no problem—defending the Court and denouncing Court packing. Both Ginsburg and Breyer denounced Court packing. As sitting Justices, they commented freely on the subject. The Justices knew that expressing a

• This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.



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clear view and defending their institution was not—I repeat, not—judicially inappropriate in any way.

But Judge Jackson has refused to follow in the footsteps of Ginsburg and Breyer. She refuses to rule out what the radical activists want. She told Senator KENNEDY that she does have an opinion on Court packing, but it is “not a strongly held opinion,” and, in any event, she wouldn’t tell Senators what it was.

But the nominee made sure to quietly signal openness—openness—for the radicals’ position. She told Senators she could see both sides of the Court-packing debate. Where Justices Ginsburg and Breyer slammed the door, Judge Jackson leaves it open. She even told the Committee:

I would be thrilled to be one of however many Congress thought appropriate to put on the Court.

“ . . . thrilled to be one of however many Congress thought appropriate to put on the Court.” “[H]owever many”? I am not sure Judge Jackson’s secret opinion on Court packing is as secret as she thinks it is.

Judge Jackson also displayed a remarkable lack of candor during basic questions about judicial philosophy. When asked about judicial philosophy, the nominee tried to punt by simply restating the most basic elements of a judge’s job description. She said she looks at the facts and treats litigants fairly. That is not explaining a judicial philosophy. That is just rewording the judicial oath. It is, basically, a non-answer.

These are pivotal questions. They require clear responses, and previous nominees had much less trouble providing them. A year and a half ago, now-Justice Barrett gave the Committee an intellectual master class in her textualist and original judicial philosophy. She described her interpretive approach in great detail. She helpfully compared and contrasted her philosophy with past and present Justices to provide Senators with points of comparison. But Judge Jackson either cannot or will not do any of that.

Senator SASSE said that in his meeting with the nominee more than 2 weeks ago, he asked the judge to compare and contrast her own thinking with Justices Breyer, Sotomayor, and Kagan to give Senators a point of reference. At that time, the judge apparently told the Senator that she needed to think about it but would get back to him. He followed up yesterday, and Judge Jackson said actually she had been too busy to give it any thought.

She could not or would not even supply a clear summary of just the philosophy of Justice Breyer. Justice Breyer is Judge Jackson’s former boss for whom she clerked. He has written entire books detailing his judicial approach, but Judge Jackson either could not or would not describe it.

In one jaw-dropping moment, Judge Jackson tried to dodge questions about constitutional interpretation by claim-

ing that she does not have enough experience—does not have enough experience.

Here is what she said:

I would say, just as an aside . . . that while I have been on the bench for nine-plus years, the issue of constitutional interpretation in that sense doesn’t come up very often. It comes up to the Supreme Court for sure, but it doesn’t come up very often in the lower courts.

In other words, at least in that moment, a nominee for the U.S. Supreme Court tried to tell the Committee that her professional experience had not prepared her—not prepared her—for an in-depth discussion of constitutional interpretation.

The White House and Senate Democrats keep saying Judge Jackson’s district court experience is perfect preparation for the Supreme Court, but it sounds like the nominee herself may actually disagree with that.

Let’s be very clear. If Judge Jackson truly feels she lacks sufficient experience with constitutional interpretation, then the Senate certainly should not confirm her. But if she does not actually feel that way, then she owes the Senate much more candor about her approach.

For decades, liberal activists have preferred judges who do not limit themselves to applying the text of our laws and our Constitution, but rather make new policy from the bench.

Sure enough, Judge Jackson spent all day yesterday trying to explain what amounts to a passionate policy disagreement with existing sentencing guidelines for certain horrible crimes. In a number of instances, she has given out sentences far, far below the sentencing guidelines and far below the government prosecutors’ request. In cases ranging from child exploitation to fentanyl trafficking, she has used every possible ounce of discretion to essentially remake sentencing policy from the bench.

Under questions from Senator COTTON, Judge Jackson said it would be inappropriate for her to comment on the proper durations of criminal sentences as this was a policy matter for legislators and not judges. But at other times, she justified her own past leniency by explaining that judges have huge amounts of discretion and latitude on sentencing criminals. Either subjective questions about sentencing are fair game for the judicial branch or they are not. Certainly, the nominee cannot have it both ways.

Today, Judge Jackson will have another chance—another chance to defend the institution of the Court, like Justices Ginsburg and Breyer had no trouble doing; another chance to give Senators a clear explanation of her judicial philosophy, like Justices Gorsuch and Barrett had no trouble doing; another chance to explain whether and how her clear policy views on the merits of sentencing criminals will continue to impact her judicial judgment.

The Senate and the country will be watching.

I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The senior assistant legislative clerk proceeded to call the roll.

Mr. SCHUMER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

#### RECOGNITION OF THE MAJORITY LEADER

The majority leader is recognized.

Mr. SCHUMER. Mr. President, I ask unanimous consent that the vote occur immediately following my remarks.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

#### RUSSIA

Mr. SCHUMER. Mr. President, on PNTR, as President Biden begins the most important foreign trip of his Presidency, the best thing the Senate can do this week is pass PNTR legislation to land another devastating blow on Putin’s economy.

Over the past few weeks, Republicans have complained that President Biden hasn’t acted quickly enough against Putin. Yet for the past few days, they have stymied swift action on PNTR, despite the fact that the House approved it 424 to 8, with Leader MCCARTHY supporting it.

In particular, the senior Senator from Idaho has sought to amend the bill to include an oil ban. We are willing to work with Senator CRAPO to address his concerns, but there are a few reasons we should move quickly with PNTR.

First, President Biden has already implemented a ban on Russian oil and gas. So passing this legislation is not a priority the way PNTR is. Second, there remain serious questions about whether the proposal from Republicans would delay the ban on buying Russian oil for a period of time. This is a consequence no one wants. Senator MANCHIN brought this up when he saw the language, and it is something that we have to make certain that this proposal isn’t weaker than what the President has put into effect. Third, showing unity, particularly at this time when the President is meeting with our European allies, is especially important.

Finally, the House is not in session. Any changes we make to the PNTR legislation delays enactment by at least a week.

There is no reason—absolutely no reason—to change what the House has already approved on PNTR and delay action by a week or more. Again, Democrats are willing to work with Senator CRAPO on this issue if he can agree to let this process move forward.

So let me say it again. PNTR has already been approved overwhelmingly by the House, and it is the most logical next step in the fight against Putin’s barbaric war, and the Senate should thus act. Republicans who complain of

delay are the ones who are delaying. The Senate has been most effective when working quickly and in unison to support the President and our European allies against Vladimir Putin. Passing PNTR with overwhelming bipartisan support is another chance to do just that.

## INSULIN

Mr. President, on insulin, yesterday I held a handful of conversations with colleagues from both sides of the aisle on one of the most confounding problems facing millions of Americans—the skyrocketing cost of insulin. Making insulin more affordable is a top priority to Democrats, so right now, there are bipartisan talks underway by Senators SHAHEEN and COLLINS to cap insulin at \$35 a month and make changes to drive the cost down in a comprehensive way.

I intend to put a proposal on the floor as soon as we can after Easter. There should be nothing remotely partisan about making sure Americans don't go broke to manage their diabetes. So Democrats are eager to work wherever we can on legislation that will cap insulin at \$35 a month and give millions a long-overdue break at the pharmacy.

It is reported that at least one in four insulin users has to ration their use of insulin because they can't afford it. The exponential spike in the cost of insulin is truly one of the most frustrating trends of the past two decades. This is a drug with no patent on which millions of Americans rely to manage their diabetes. Today, a 40-day supply of insulin can exceed \$600 a month—a prohibitive and downright immoral price that makes no sense at all.

Over the past few weeks, a number of my colleagues, including Senator WARNOCK, Senator SHAHEEN, Senator MURRAY, and Senator COLLINS, have worked assiduously on proposals for bringing down the price of insulin, bringing it back down, as part of our larger effort to lower costs for American families. The latest bipartisan effort will combine elements from Senator WARNOCK's and other proposals, and it has my enthusiastic backing because lowering the cost of insulin is so important.

I commend my colleagues on both sides of the aisle for working on this issue in good faith. Bipartisanship has been the kindling for a number of recent Senate accomplishments, and insulin should be another issue where we deliver.

In addition, incidentally, while we are talking about cost-cutting, we are having hearings this week on a number of issues relating to high cost. Senator CASEY, in the Aging Committee, is leading a hearing on home care and the high cost there today. Senator CARPER is leading a hearing on clean energy and national security and the high cost of energy. In Agriculture, Senator STABENOW had a hearing yesterday on the cost of rural childcare, rural elder care, and healthcare.

H.R. 4521

Mr. President, on the competition bill, today the Senate will take another step to advance major, bipartisan legislation to increase American jobs and lower costs for American families. For over a year, both parties have worked on competitiveness legislation built around two goals: Create more American jobs and lower costs for American families. In the case of Senator YOUNG and myself, the effort has stretched back many years. The House and Senate passed legislation to achieve these goals separately, so the best way now to send a final product to the President's desk is by entering a conference committee with the House. We are now working towards that end and jumping through a number of procedural hoops to get that done.

The majority of us want to see this legislation reach the President's desk. We want to see costs go down for families, see more manufacturing jobs here at home, see greater relief for supply chains, and we want to revive America's unparalleled innovation machine that fueled our economy for so much of the 20th century.

The past month reminds us that our country is vulnerable when we import too many goods from a single country—particularly, in this case, semiconductors. The war in Ukraine is a perfect test case. Some of the most important resources for making chips, like neon gas, come precisely from Ukraine.

We need to make more of these products here in America instead of overseas so we can lower costs, shore up our supply chains, and preserve our national security. For that reason alone, the Senate is moving ahead on this important competitive legislation.

## NOMINATION OF KETANJI BROWN JACKSON

Mr. President, finally, on SCOTUS, the Supreme Court, yesterday Judge Ketanji Brown Jackson offered a 13-hour master class of why she deserves to be the 116th Justice of the U.S. Supreme Court. She was simply impressive. It was clear to anyone watching that Judge Jackson's brilliant legal mind was running in high gear. She remained measured and poised and thoughtful as she worked through yesterday's grueling series of questions.

Over the course of the day, Judge Jackson affirmed that she will approach her role on the Supreme Court with prudence, a respect for precedent, and by serving in the same mainstream fashion as the great Justice whose seat she would fill.

At times, the judge also displayed one of her greatest strengths: her grace and poise even during moments when a handful of Republicans asked intentionally misleading questions—questions which even their fellow Republicans found uncomfortable. Republicans tried to land a blow, but Judge Jackson kept her cool. By the end of the day, it was obvious why the judge's nomination has won the support of everyone from law enforcement to con-

servative judges, to scores of peers throughout her career. I expect she will reach final confirmation by the end of this work period.

Now, even as the judge continues her testimony today, the Senate will also be busy confirming scores of other judges to important positions across the Federal bench. I am proud to say that last night, the Senate confirmed its 50th judge under President Biden, and by the end of tonight, we could reach as many as 58 total judges. But doing that is going to take a lot of focus and patience, just as we required last week. I will once again ask my colleagues that in order to move through tonight's votes quickly, we should stay in our seats or as close to the Senate floor as possible.

I yield the floor.

## VOTE ON MOTION

The ACTING PRESIDNET pro tempore. Under the previous order, the question is agreeing to the motion to proceed.

Mr. MENENDEZ. I ask for the yeas and nays.

The ACTING PRESIDENT pro tempore. The yeas and nays have been requested.

Is there a sufficient second?

There appears to be a sufficient second.

The clerk will call the roll.

The senior assistant legislative clerk called the roll.

Mr. DURBIN. I announce that the Senator from Pennsylvania (Mr. CASEY), the Senator from West Virginia (Mr. MANCHIN), and the Senator from New Hampshire (Mrs. SHAHEEN) are necessarily absent.

The result was announced—yeas 66, nays 31, as follows:

[Rollcall Vote No. 100 Leg.]

## YEAS—66

Baldwin	Grassley	Portman
Bennet	Hassan	Reed
Blumenthal	Heinrich	Risch
Blunt	Hickenlooper	Romney
Booker	Hirono	Rosen
Brown	Kaine	Rounds
Cantwell	Kelly	Sasse
Capito	King	Schatz
Cardin	Klobuchar	Schumer
Carper	Leahy	Sinema
Cassidy	Lujan	Smith
Collins	Markey	Stabenow
Coons	McConnell	Tester
Cornyn	Menendez	Tillis
Cortez Masto	Merkley	Van Hollen
Crapo	Moran	Warner
Daines	Murkowski	Warnock
Duckworth	Murphy	Warren
Durbin	Murray	Whitehouse
Feinstein	Ossoff	Wicker
Gillibrand	Padilla	Wyden
Graham	Peters	Young

## NAYS—31

Barrasso	Hawley	Rubio
Blackburn	Hoehn	Sanders
Boozman	Hyde-Smith	Scott (FL)
Braun	Inhofe	Scott (SC)
Burr	Johnson	Shelby
Cotton	Kennedy	Sullivan
Cramer	Lankford	Thune
Cruz	Lee	Toomey
Ernst	Lummis	Tuberville
Fischer	Marshall	
Hagerty	Paul	

## NOT VOTING—3

Casey	Manchin	Shaheen
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The PRESIDING OFFICER (Ms. CORTEZ MASTO). On the motion to proceed to Calendar No. 282, H.R. 4521, the America COMPETES Act, the yeas are 66, the nays are 31.

The motion is agreed to.

# AMERICA CREATING OPPORTUNITIES FOR MANUFACTURING, PRE-EMINENCE IN TECHNOLOGY, AND ECONOMIC STRENGTH ACT OF 2022

The PRESIDING OFFICER. The clerk will report the bill by title.

The senior assistant legislative clerk read as follows:

A bill (H.R. 4521) to provide for a coordinated Federal research initiative to ensure continued United States leadership in engineering biology.

The PRESIDING OFFICER. The majority leader.

## AMENDMENT NO. 5002

(Purpose: In the nature of a substitute)

Mr. SCHUMER. Madam President, I call up amendment No. 5002.

The PRESIDING OFFICER. The clerk will report.

The senior assistant legislative clerk read as follows:

The Senator from New York [Mr. SCHUMER] proposes an amendment numbered 5002.

Mr. SCHUMER. I ask to dispense with further reading of the amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The amendment is printed in the RECORD of March 22, 2022, under "Text of Amendments.")

Mr. SCHUMER. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The yeas and nays are ordered.

## AMENDMENT NO. 5003 TO AMENDMENT NO. 5002

Mr. SCHUMER. Madam President, I have an amendment at the desk.

The PRESIDING OFFICER. The clerk will report.

The senior assistant legislative clerk read as follows:

The Senator from New York [Mr. SCHUMER] proposes an amendment numbered 5003 to amendment No. 5002.

Mr. SCHUMER. I ask to dispense with further reading of the amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To modify the effective date)

At the end, add the following: "This Act shall take effect on the date that is 1 day after the date of the enactment of this Act."

Mr. SCHUMER. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The yeas and nays are ordered.

## AMENDMENT NO. 5004 TO AMENDMENT 5003

Mr. SCHUMER. I have a second-degree amendment at the desk.

The PRESIDING OFFICER. The clerk will report.

The senior assistant legislative clerk read as follows:

The Senator from New York [Mr. SCHUMER] proposes an amendment numbered 5004 to amendment No. 5003.

Mr. SCHUMER. I ask to dispense with further reading of the amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To modify the effective date)

On page 1, line 2, strike "1 day" and insert "2 days".

## AMENDMENT NO. 5005

Mr. SCHUMER. Madam President, I have an amendment to the underlying bill at the desk.

The PRESIDING OFFICER. The clerk will report.

The senior legislative clerk read as follows:

The Senator from New York [Mr. SCHUMER] proposes an amendment numbered 5005 to the language proposed to be stricken by amendment No. 5002.

Mr. SCHUMER. I ask to dispense with further reading of the amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To modify the effective date)

At the end, add the following: "This Act shall take effect on the date that is 3 days after the date of the enactment of this Act."

Mr. SCHUMER. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The yeas and nays are ordered.

## AMENDMENT NO. 5006 TO AMENDMENT NO. 5005

Mr. SCHUMER. Madam President, I have a second-degree amendment at the desk.

The PRESIDING OFFICER. The clerk will report.

The senior assistant legislative clerk read as follows:

The Senator from New York [Mr. SCHUMER] proposes an amendment numbered 5006 to amendment No. 5005.

Mr. SCHUMER. I ask to dispense with further reading of the amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To modify the effective date)

On page 1, line 2, strike "3 days" and insert "4 days".

## MOTION TO COMMIT WITH AMENDMENT NO. 5007

Mr. SCHUMER. Madam President, I move to commit H.R. 4521 to the Committee on Commerce, Science, and Transportation with instructions to report back forthwith with an amendment.

Mr. SCHUMER. The clerk will report. The senior assistant legislative clerk read as follows:

The Senator from New York [Mr. SCHUMER] moves to commit H.R. 4521 to the Committee

on Commerce, Science, and Transportation with instructions to report back forthwith with an amendment numbered 5007.

Mr. SCHUMER. I ask to dispense with further reading.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To modify the effective date)

At the end, add the following: "This Act shall take effect on the date that is 5 days after the date of the enactment of this Act."

Mr. SCHUMER. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The yeas and nays are ordered.

## AMENDMENT NO. 5008

Mr. SCHUMER. Madam President, I have an amendment to the instructions at the desk.

The PRESIDING OFFICER. The clerk will report.

The senior assistant legislative clerk read as follows:

The Senator from New York [Mr. SCHUMER] proposes an amendment numbered 5008 to the instructions of the motion to commit.

Mr. SCHUMER. I ask to dispense with further reading of the amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To modify the effective date)

On page 1, line 2, strike "5 days" and insert "6 days".

Mr. SCHUMER. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The yeas and nays are ordered.

## AMENDMENT NO. 5009 TO AMENDMENT NO. 5008

Mr. SCHUMER. I have a second-degree amendment at the desk.

The PRESIDING OFFICER. The clerk will report.

The senior assistant legislative clerk read as follows:

The Senator from New York [Mr. SCHUMER] proposes an amendment numbered 5009 to amendment No. 5008.

Mr. SCHUMER. I ask to dispense with further reading of the amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To modify the effective date)

On page 1, line 1, strike "6 days" and insert "7 days".

The PRESIDING OFFICER. The majority leader.

Mr. SCHUMER. Now, Madam President, as President Biden begins the most important foreign trip of his Presidency, the best thing the Senate can do this week is pass permanent normal trade relation legislation so we can land another devastating blow on Putin's economy. In a few moments, I will ask the Senate for consent to do just that.